

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

KENDALL MAGEE

PLAINTIFF

VERSUS
MTP

CIVIL ACTION NO. 2:16-cv-172 KS-

SHIRLEY HARRIS, ET AL

DEFENDANTS

ORDER

This cause came on this date to be heard upon the Report and Recommendation of the United States Magistrate Judge entered herein on June 22, 2017, after referral of hearing by this Court, no objections having been filed as to the Report and Recommendation, and the Court, having fully reviewed the same as well as the record in this matter, and being duly advised in the premises, finds that said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation be, and the same hereby is, adopted as the finding of this Court, and the Court orders the following:

- 1 That the Motion for Summary Judgment [35] is DENIED, and
2. That the parties are afforded an evidentiary hearing on the issue of exhaustion as referenced in *Dillon v. Rogers* 596 F.3d 266, if requested, prior to trial. In accordance with the Order [18] referring this case for proposed findings of fact and recommendations, the Magistrate Judge will hold this hearing and make findings and recommendations as to disposition of the issue of exhaustion as appropriate. It is further Ordered that any party requesting such a hearing should do so by September 10, 2017. Otherwise, the issue of exhaustion will be an issue to be

addressed at trial.

SO ORDERED, his the 29th day of August, 2017.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE